

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Marie Assa’ad-Faltas, M.D., M.P.H.,)	C.A. No. 3:10-cv-3014-TLW-JRM
for herself and for all similarly-situated persons,)	
)	
Plaintiff,)	
vs.)	
)	
The City of Columbia, <i>South Carolina</i> ;)	
Members of the City’s Council;)	
Jeannette McBride, <i>Richland County Clerk of Court</i> ;)	ORDER
Dana Davis Turner, <i>Chief Administrator of the City’s</i>)	
<i>Municipal Court</i> ;)	
Angela Ladsen, <i>Ministerial Recorder for the City</i> ;)	
Sandi Myers, <i>parking officer for the City</i> ;)	
All Parking Officers, <i>past, present and future, for the</i>)	
<i>City</i> ;)	
Marion Hanna, <i>Judge for Columbia’s Municipal Court</i> ;)	
G. Thomas Cooper, Jr.;)	
James R. Barber, Jr.;)	
South Carolina Circuit Judges;)	
<i>and all other presently unknown persons and entities</i>)	
<i>necessary for adjudication of this case, all solely in the</i>)	
<i>official capacities and solely for injunctive relief</i> ,)	
)	
Defendants.)	
)	

This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Joseph R. McCrorey, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In his Report, Magistrate Judge McCrorey recommends that the above-captioned case be dismissed without prejudice and without issuance and service of process. (Doc. # 11). The Report further

recommends that plaintiff's motion for reassignment of this case to a "Judge in Columbia" (Doc. #5) be denied. Plaintiff has filed objections to the Report. (Doc. # 19).¹

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. The Court accepts the Report, as outlined herein. The Court does note that the Report does not specifically address the defendant City of Columbia and the allegations made by plaintiff as to this defendant. Accordingly, the Court finds it necessary to remand the case back to the magistrate judge solely for consideration of whether service of process should issue as to this remaining defendant.

THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report is

¹The Court notes that plaintiff has filed additional motions since the filing of the Magistrate Judge's Report and Recommendation: (1) Motion for Equal Access to the Courts (Doc. # 23); and (3) Motion for Immediate Relief (Doc. # 24). In light of this Court's acceptance of the recommendation of the magistrate judge in this case with the exception outlined herein, and after careful review and consideration, the Court concludes that these motions should be **DENIED**.

ACCEPTED as outlined herein (Doc. # 11), plaintiff's objections are **OVERRULED** (Doc. # 19); and the above-captioned case is **DISMISSED** without prejudice and without issuance and service of process as to all defendants except the City of Columbia. As to defendant City of Columbia, the case is **REMANDED** back to the magistrate judge for consideration of whether service of process should issue. Additionally, as recommended in the Report, plaintiff's motion for reassignment of this case to a "Judge in Columbia" (Doc. # 5) is **DENIED**.

IT IS SO ORDERED.

s/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

April 21, 2011
Florence, South Carolina